



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,649	02/14/2000	George Rome Borden IV	8371-35	6953

7590 05/10/2004

Marger Johnson & McCollom P C  
1030 S W Morrison Street  
Portland, OR 97205

EXAMINER

HOYE, MICHAEL W

ART UNIT PAPER NUMBER

2614

DATE MAILED: 05/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/503,649

Applicant(s)

BORDEN IV ET AL.

Examiner

Michael W. Hoye

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7-11 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-11 is/are allowed.
- 6) ☒ Claim(s) 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicants' arguments filed on 2/9/04 have been fully considered but they are not persuasive.

As to independent claim 25, the Applicants argue that, "LaJoie "does not disclose that the cursor (i.e. program selection area) is fixed in a predetermined selection region near the center of the display so that programs both before and after the selected area remain visible when the user scrolls the titles on the display." ... [And] the "obviousness" of this feature [argued by the Examiner] appears predicated on hindsight gleaned from Applicants' own teachings, and not on any teaching found in the prior art."

In response, the Examiner respectfully disagrees with the Applicants because the LaJoie patent discloses in Figure 16 the claimed "program selection area" as met by cursor 394, the claimed "fixing a program selection area corresponding to a predefined selection region near the center of the display" is met by cursor 394, which does not move within grid 366 or is "fixed" (col. 24, lines 53-54), corresponds to grid 366 made up of program cells 396 or the "predefined selection region" (col. 24, lines 16-33), and the cursor 394 is "near the center of the display" 338 (col. 23, lines 41-51), the claimed "scrolling the program titles on the display in response to viewer requests" is met by the user pressing the up, down, left or right keys 128 on the remote 59, where the program cells 396 in grid 366 scroll up, down, left or right respectively (see col. 24, line 56 – col. 25, line 7), and the claimed "changing the program corresponding to the program selection area while programs both before and after the selected area remain visible" is

Art Unit: 2614

met in part by the LaJoie reference as described above (col. 24, line 56 – col. 25, line 7), where programs both before and after the selected area remain visible along the vertical axis which represents programs according to the channel list 350 (col. 24, lines 56-59 & 62-64). In the horizontal axis, which represents programs according to the time bar 348 (col. 24, lines 59-62 & line 64 – col. 25, line 14), the LaJoie patent does not explicitly show that programs before the “selected area” in the horizontal axis remain visible. Although, the specific language currently used in claim 25 does not give explicit detail as to whether the claimed, “scrolling the program titles on the display...corresponding to the program selection area while programs both before and after the selected area remain visible”, occurs in both the vertical and horizontal directions, even if the claim language was more specific regarding this matter, it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to have programs [which occur] before the selected area in the horizontal or time axis to remain visible for the advantage of allowing the user to view program titles on the display which occur prior to or in a time slot before the location of the fixed program selection area, or to the left of the fixed program selection area on the display, in addition, this gives the user a more complete picture or display of the programming occurring within a close proximity to the selection region. In addition, various other references or prior art provide the teaching of having a “selection area” or “focus region” that is fixed in the center or near the center of a display, which has programs or items corresponding to the selection area located along the horizontal and/or vertical axis in a selection region, which allows the user to view the items occurring both before and after the selected area by keeping those items or programs visible to the viewer. In the Matthews, III et al (USPN 65,677,708) reference this teaching is specifically disclosed in Fig. 11, where items or programs

Art Unit: 2614

both before and after the focus frame 192 remain visible (see col. 17, lines 23-44). Therefore, it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of the LaJoie reference with the teachings of the Matthews, III et al reference for displaying programs [which occur] before the selected area in the horizontal or time axis to remain visible for the advantages given above.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### ***Drawings***

2. The corrected drawings were received on 2/9/04. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie.

Art Unit: 2614

As to claim 25, LaJoie discloses an EPG with multiple channel and time slot identifiers and program titles located in the corresponding channel and time slot identifiers. A program selection area is fixed at a predefined region of the display, and, in response to viewer requests, the program titles are scrolled, thereby changing the program in the program selection area. The aforementioned features are illustrated in Figure 16 and disclosed in column 23, line 44 – column 24, line 36. The LaJoie patent discloses in Figure 16 the claimed “program selection area” as met by cursor 394, the claimed “fixing a program selection area corresponding to a predefined selection region near the center of the display” is met by cursor 394, which does not move within grid 366 or is “fixed” (col. 24, lines 53-54), corresponds to grid 366 made up of program cells 396 or the “predefined selection region” (col. 24, lines 16-33), and the cursor 394 is “near the center of the display” 338 (col. 23, lines 41-51), the claimed “scrolling the program titles on the display in response to viewer requests” is met by the user pressing the up, down, left or right keys 128 on the remote 59, where the program cells 396 in grid 366 scroll up, down, left or right respectively (see col. 24, line 56 – col. 25, line 7), and the claimed “changing the program corresponding to the program selection area while programs both before and after the selected area remain visible” is met in part by the LaJoie reference as described above (col. 24, line 56 – col. 25, line 7), where programs both before and after the selected area remain visible along the vertical axis which represents programs according to the channel list 350 (col. 24, lines 56-59 & 62-64). In the horizontal axis, which represents programs according to the time bar 348 (col. 24, lines 59-62 & line 64 – col. 25, line 14), the LaJoie patent does not explicitly show that programs before the “selected area” in the horizontal axis remain visible. Although, the specific language currently used in claim 25 does not give explicit detail as to whether the claimed, “scrolling the

Art Unit: 2614

program titles on the display... corresponding to the program selection area while programs both before and after the selected area remain visible”, occurs in both the vertical and horizontal directions, even if the claim language was more specific regarding this matter, it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to have programs [which occur] before the selected area in the horizontal or time axis to remain visible for the advantage of allowing the user to view program titles on the display which occur prior to or in a time slot before the location of the fixed program selection area, or to the left of the fixed program selection area on the display, in addition, this gives the user a more complete picture or display of the programming occurring within a close proximity to the selection region. In addition, various other references or prior art provide the teaching of having a “selection area” or “focus region” that is fixed in the center or near the center of a display, which has programs or items corresponding to the selection area located along the horizontal and/or vertical axis in a selection region, which allows the user to view the items occurring both before and after the selected area by keeping those items or programs visible to the viewer. In the Matthews, III et al (USPN 65,677,708) reference this teaching is specifically disclosed in Fig. 11, where items or programs both before and after the focus frame 192 remain visible (see col. 17, lines 23-44). Therefore, it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of the LaJoie reference with the teachings of the Matthews, III et al reference for displaying programs [which occur] before the selected area in the horizontal or time axis to remain visible for the advantages given above.

***Allowable Subject Matter***

5. Claims 7-11 are allowed.

As to claims 7-9, LaJoie fails to teach or imply displaying program details for multiple programs corresponding to the channel identifier and time slots of the program appearing in the selection region. U.S. Patent No. 6,246,442 to Harada et al. discloses an apparatus for displaying information arranged in cells. As illustrated in Figure 9, program details for programs meeting certain attributes (such as channel identifier and time slot) are displayed along a display axis. Even though the overall arrangement resembles that disclosed in the instant application, program details are not displayed in accordance with what is appearing in a selection region. Harada's system simply provides a method for determining the appearance of a guide, which is not affected by what is appearing in a selection region of the guide. Harada's system fails to teach or suggest updating a program details area according to a program appearing in a selection region, or a selection region altogether.

As to claims 10-11, LaJoie does not disclose displaying the program titles in bounded display areas resembling a three-dimensional stack of file tabs whose contents are displayed when the viewer manipulates the stack. U.S. Patent No. 6,522,342 to Gagnon discloses an EPG where file tabs are present, as illustrated in Figure 12. However, Gagnon's file tabs are used to aid the user in selecting different categories of actions (e.g., Messages, Schedules, Settings). The program titles are still displayed in a standard two-dimensional grid format, and there is not teaching or implication to display them as file tabs.

***Conclusion***



The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gallup et al (USPN 6,201,540) – Discloses graphical interface components where a centered icon occupies the focus position and other icons that are visible before and after the centered icon may be scrolled to the centered focus position.

Wilcox et al (USPN 6,678,891) – Discloses a navigational user interface for interactive television where a focus-box located near the center of the display remains stationary during scrolling and items occurring before and after the focus-box are visible to the viewer.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 2614

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoyer whose telephone number is (703) 305-6954.

The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (703) 305-4795.

**Any response to this action should be mailed to:**

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

Mail Stop \_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Please address mail to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolator, etc.) as follows:

U.S. Patent and Trademark Office  
2011 South Clark Place  
Customer Window, Mail Stop \_\_\_\_  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, Virginia 22202


**Or faxed to: (703) 872-9306**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Art Unit: 2614

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **(703) 308-HELP**.

Michael W. Hoyer  
April 21, 2004

  
JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600